



## KERN COUNTY WATER AGENCY

WtrRes/Planning

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Dear Jonas,

I wanted to provide some thoughts to you regarding two California Water Plan workshops that were held yesterday. One workshop was on the public trust as it relates to water transfers, and the other workshop was on the state's role in the CWP (chapter 6). I participated in both meetings via conference phone. I want to thank you for making conference capabilities available at all of the workshops. This has made it possible for me to participate in most of the workshops. Travel to all of the workshops would have been impossible due to local commitments.

Yesterday's discussion on water transfers focused on exploring ways to strengthen the state's consideration of public trust and environmental justice issues prior to approving water transfers, even if they are only annual transfers. I appreciate the desire of some AC members to see this happen. What seemed to emerge from the discussion was creation of a master list of issues that state agencies would use to determine if a proposed transfer could be approved or not. I pointed out that most transfers that involve changes in place of use require CEQA or NEPA analyses, and sometimes both. The concept of creating another layer of oversight beyond CEQA/NEPA is unacceptable to me. I'm sure many other AC members whose agencies regularly engage in water transfers will also find this suggestion unacceptable.

When a transfer involves the California Aqueduct, of course DWR must approve it. Under some conditions, the SWRCB must also get involved (i.e., change in place of use). The state has the opportunity to approve or disapprove the transfer on those two levels. I believe that most water transfers already have had the public trust considered when the water was allocated to the contractors. For instance, when DWR tells its contractors what their allocations are, the public trust was considered in making that determination. Operating criteria, snow pack, runoff, target storage levels to maintain recreational uses, Delta water quality and outflow regulations, and other factors, are all considered prior to making the allocation. If a contractor subsequently chooses to transfer water to another entity, it is inappropriate for the state to again consider public trust resources when granting approval. To do so could only serve to reduce the flexibility to manage our water resources in the most efficient manner. The same is true of allocations to federal contractors.

The only issues that are left for consideration are related to environmental justice. These are generally considered as part of what has come to be called third-party impacts. Some AC members are very concerned that EJ issues are inadequately

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considered by the parties to a water transfer. Other AC members are concerned that water districts are doing one-year transactions over multiple years, thus circumventing the need for a full-blown EIR. It is debatable how often this occurs. Nevertheless, I think it is unbalanced to only consider EJ impacts in the source region and ignore the EJ benefits in the receiving region. I'm also not sure what's to be gained by developing an additional check list that state agencies would use to consider the extent to which EJ or public trust issues have been considered. This will only offer more reasons for good water transfers to be blocked.

Since CEQA and NEPA analyses are legal instruments that can be legally challenged, resolution of site-specific problems should appropriately be found in the courts, and not in the California Water Plan. I don't think the Water Plan should attempt to offer non-legal resolution of legal matters. Also, we should not be trying to craft solutions to site-specific problems (the minority of transfers) that will likely have unintended impacts on the majority of transfers. The Water Plan's recommendations must be statewide and unbiased in nature.

Regarding the recommendations in the Water Transfers Strategy description for chapter 5, I offer the following observations.

- Recommendation 1 – **“Local government and water agencies should take the lead role and provide for community participation when addressing conflicts caused by transfers within their jurisdiction.”** This recommendation does not define what the state's role will be in accomplishing this. It should be rewritten to specify what the state's role is with respect to building local leadership.
- Recommendation 2 – **“The state, in addition to implementing state law, should assist with resolving potential conflicts over water transfers when local government and water agencies are unable to do so.”** Again, this recommendation does not indicate what kind of assistance the state might offer to resolve conflicts over water transfers. Some specifics here would help. Otherwise, it is difficult to know whether Advisory Committee members can support the recommendation or not.

I hope these comments clarify my concerns on the water transfer discussions. This is a serious matter to Kern County Water Agency. I look forward to the next version of the water transfers narrative being made available in order to provide specific comments or responses.

During the workshop discussion on the state's role in the California Water Plan (chapter 6), quite a bit of confusion occurred over the “principles for providing state assistance and investment.” In particular, the principle, **Implement cost-effective water use efficiency and enhance efficiency of existing infrastructure** generated quite a discussion. There were concerns over use of “cost-effective” in the text, among other things. My thought on the matter, which there was insufficient time to express during the workshop, is that the main subject of this principle is to implement cost-effective actions and strategies that make a region more inherently drought resistant. Water use efficiency, efficiency of existing infrastructure, local surface storage, expanded conjunctive use, etc. are all appropriate actions and strategies to achieve higher drought resiliency. As written, this principle gives undue preference to water use efficiency measures over others that may be just as or more appropriate to a region. To illustrate, using the principles for providing state assistance and investment that are currently listed, a project would get preference for state assistance if it:

- Promotes the 4 Cs (communication, coordination, cooperation and collaboration; AND
- Emphasizes long-term planning; AND

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- Promotes regional planning; AND
- Is sustainable; AND
- Benefits the environment; AND
- Considers environmental justice; AND
- Is a water use efficiency measure.

I don't see why we need to prefer water use efficiency measures over other regional measures that may produce the same or greater level of cost-effective benefits. As written, the principles don't acknowledge that there are other methods of achieving regional self-sufficiency than water use efficiency. As such, the principle is unnecessarily biased toward water use efficiency. I think it needs to be fixed to read:

**Implement actions that make a region more drought resilient.** The descriptive text would reflect this, and would include water use efficiency as a potential action. But it shouldn't be the star of the show.

I hope this helps clarify my thoughts on the above matters. If you have any questions, feel free to call me at (661) 392-0494 (home office) or (661) 332-8247 (cell phone).

Best regards,

*Lloyd Fryer*

Lloyd W. Fryer

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